

Dr. Reiter is expected to testify as follows:

1. Dr. Reiter will testify regarding the meaning of the disputed claim elements to one of ordinary skill in the art, taking into account the understood meaning of the terms in the art, the patent specifications and the file histories. He will testify as follows:

a. InterTrust's proposed definitions, attached as Exhibit B to the Joint Claim Construction Statement ("JCCS") are consistent with the use of the terms or phrases in the specification and the relevant art. Those definitions are attached hereto. Citations to supporting specification text and relevant art can be found in Exhibit C to the JCCS.

b. Microsoft has made repeated substantial changes to its proposed definitions, the changes continuing up to shortly before the present document was prepared. For this reason, it is impossible to include detailed responses to the issues raised by those definitions.

In general, however, the Microsoft definitions incorporate restrictions that are inconsistent with specification use of the terms and/or inconsistent with the understanding of the terms in the art. Those inconsistencies are demonstrated by the attached supporting evidence. The following discussion lists one or more serious deficiencies in each Microsoft definition, but is not intended as a comprehensive description of all such deficiencies.

#### **Individual terms**

##### **Access/Access to/Accessing/Accessed**

The first sentence of Microsoft's definition is generally consistent with the InterTrust definition. The second sentence of the Microsoft definition is based on a specific disclosed embodiment, and is inconsistent with general use of the term in the specifications.

##### **Addressing**

The two parties' definitions are very close. Microsoft's definition is, however, improper in its apparent exclusion of indirect addressing.

##### **Allowing, allows**

Microsoft's definition is based on a specific disclosed embodiment and ignores other embodiments. See InterTrust's supporting evidence.

##### **Arrangement**

Microsoft's definition requires particular types of organizations and is therefore inconsistent with the patent specifications.

#### **Aspect**

Microsoft's definition is overly restrictive in its requirement that an aspect be "persistent" and that it "can be used to distinguish [an environment] from other environments."

#### **Associated with**

Microsoft's definition incorporates restrictions based on a particular embodiment and is inconsistent with other disclosed embodiments and with the general meaning of the term.

#### **Authentication**

Microsoft's definition requires multiple types of authentication, in a manner not required by use of this term in the specification or the art. Moreover, some of these types cannot be applied (e.g., "origin integrity" applied to an organization).

#### **Authorization information, Authorized, Not authorized**

Microsoft's definitions are based on specific embodiments and contradicted by alternative embodiments disclosed in the specifications.

#### **Budget control; Budget**

Microsoft's definition improperly restricts "budget" to a particular type of method, and improperly restricts Budget Control in a manner inconsistent with the specification.

#### **Can be**

Microsoft's definition incorporates the language "which otherwise cannot be carried out." This language is inconsistent with the specifications.

#### **Capacity**

The Microsoft definition relates to hardware storage devices, a context that is irrelevant to use of the term in the relevant claim.

#### **Clearinghouse**

Microsoft's definition is inconsistent with use of this term in the specifications. See InterTrust's supporting evidence.

### **Compares; Comparison**

Microsoft's definition is based on a particular type of processor operation, a context that is not discussed in the specification and not required by the claim.

### **Component assembly**

Microsoft's definition incorporates a large number of restrictions based on specific embodiments and ignoring alternate embodiments.

### **Contain, contained, containing**

Microsoft's definition requires "physically" or "directly" storing, and distinguishes Addressing. This is inconsistent with use of the term in the specification.

### **Control (n.); Controls (n.)**

The Microsoft definition incorporates a large number of restrictions based on specific embodiments, and ignores alternate embodiments described in the specifications.

### **Controlling; Control (v.)**

The Microsoft definition incorporates limitations that are not required by the specification, including limitations contradicted by use of the term in the specifications and by disclosed embodiments.

### **Copied file**

The Microsoft definition improperly distinguishes "copied file" from "copy."

### **Copy, copied, copying (v.)**

The Microsoft definition is internally inconsistent, since it both prohibits and allows changes in the reproduced file. That definition also incorporates examples that are inconsistent with use of the terms in the claims.

### **Copy control**

The Microsoft definition is inconsistent with use of this term in the claim.

### **Data item**

The Microsoft definition incorporates limitations not present in the InterTrust definition. These limitations are not required by the specification or normal use of the term in the art.

### **Derive, Derives**

The Microsoft definition requires retrieval, a concept not required by the specifications or use of this term in the claim.

### **Descriptive data structure**

Limitations in the last two sentences of the Microsoft definition are inconsistent with described embodiments and are not required by the specifications or use of the term in the claims.

### **Designating**

The Microsoft definition does not apply to this term, but instead to the claim phrase in which the term is found. That claim phrase is separately defined.

### **Device class**

The Microsoft definition is inconsistent with the definition given to this term during prosecution.

### **Digital file**

The Microsoft definition is overly restrictive. The limitations is incorporates are not required by the specification, use of the term in the claims or general use in the relevant art.

### **Digital signature; Digitally signing**

The Microsoft definition of digital signature requires that the string be "computationally unforgeable," a characteristic that is impossible to obtain. The Microsoft definition of digitally signing requires a secret key, and also includes significant background discussion not necessary for the definition.

### **Entity's control**

Microsoft's definition improperly requires control of a "particular use of or access to particular protected information by a particular user(s)." No such requirements are imposed by the term, the claim or the specifications.

### **Environment**

Microsoft does not appear to have provided any definition for this term.

### **Executable programming; Executable**

Microsoft's requirement of "machine code instructions" is inconsistent with use of this term in the specifications. In addition, Microsoft's definition of "computer program" imposes limitations not required by these terms.

#### **Execution space; Execution space identifier**

Microsoft's definition of Execution Space is inconsistent with the explicit definition given to this term during prosecution. Microsoft's definition of Execution Space Identifier improperly requires "unique" identification.

#### **Governed item**

Microsoft's definition of Governed Item requires arbitrarily fine granularity and control of "access and use by any user, process, or device." Neither the term nor the specifications require such limitations.

#### **Halting**

The Microsoft definition requires execution be "unconditionally" stopped. The specification imposes no such requirement, and the Microsoft definition appears to be based on a particular type of instruction that is not mentioned in the patents.

#### **Host processing environment**

The Microsoft definition incorporates the term "VDE node," a term that is itself defined at great length, incorporating numerous improper limitations. The Microsoft definition also improperly incorporates restrictions based on privileged mode versus user mode, and "loaded" software. In addition, the Microsoft definition improperly excludes hardware.

#### **Identifier, Identify, Identifying**

The Microsoft definitions improperly restrict these terms to "particular instances."

#### **Including**

The definitions are consistent, except that the hardware portion of Microsoft's definition requires "physically present within." This is inconsistent with use of the term in the claims.

#### **Information previously stored**

Microsoft's definition would render the claim nonsensical, since it would require a comparison involving information that is no longer available for the comparison.

### **Integrity programming**

The Microsoft definition is internally inconsistent, improperly incorporates the term Executable Programming and improperly defines integrity as excluding all alterations.

### **Key**

Microsoft's exclusion of "key seed or other information from which the actual encryption and/or decryption key is constructed, derived, or otherwise identified" is inconsistent with the specification and general use of the term in the relevant art.

### **Load module**

Microsoft's definition imposes numerous limitations beyond those identified in the InterTrust definition. Those additional limitations are not required by the term and are inconsistent with embodiments disclosed in the specifications.

### **Machine check programming**

The Microsoft definition improperly requires Executable Programming and a "unique 'machine signature' which distinguishes the physical machine from all other machines." These limitations are not required by the term.

### **Opening secure containers**

The Microsoft definition improperly distinguishes "opening" from decrypting, and improperly incorporates limitations based on a particular embodiment of opening.

### **Operating environment**

See Processing Environment.

### **Organization, Organization information, Organize**

The Microsoft definitions improperly incorporate concepts related to physical storage.

### **Portion**

The Microsoft definition improperly implies that presence of a "portion" excludes presence of the whole.

### **Prevents**

The Microsoft definition requires a level of certainty that is inconsistent with the specification and impossible to obtain.

#### **Processing Environment**

The Microsoft definition incorporates a specific embodiment and would exclude other embodiments disclosed for this term.

#### **Protected processing environment**

The Microsoft definition incorporates at least several dozen highly restrictive and unnecessary limitations, and appears to combine restrictions from multiple separate embodiments.

#### **Protecting**

The incorporation of Security into the Microsoft definition is improper, since that term is considerably more general than the manner in which Protecting is used in the claim.

#### **Record**

The Microsoft definition includes limitations beyond those incorporated in the InterTrust definition. These added limitations are not required by use of this term in the claims, specification, or art.

#### **Required**

The Microsoft definition implies a degree of absoluteness that is inconsistent with the specification. The second sentence of the Microsoft definition is unsupported by the specification or normal use of the term.

#### **Resource processed**

The Microsoft definition improperly requires a "shared facility," and that the resource be "required by a job or task." These are not required by the claim or specification.

#### **Rule**

The Microsoft definition improperly distinguishes Rules from Controls, and imposes an unsupported requirement that a Rule be a "lexical statement."

#### **Secure**

The Microsoft definition requires absolute protection against all possible threats, and is therefore inconsistent with use of the term in the specification, the claims, and the relevant art.

#### **Secure container**

The requirements imposed by the Microsoft definition are either inconsistent with the specification or ignore disclosed embodiments.

#### **Secure container governed item**

The Microsoft definition imposes a requirement of absolute security that is inconsistent with the specification and ignores alternate disclosed embodiments.

#### **Secure database**

The Microsoft definition improperly defines "database" in accordance with one particular type of database, and improperly imposes a requirement of absolute security that is inconsistent with the specification.

#### **Secure execution space**

The Microsoft definition is inconsistent with and excludes embodiments of Secure Execution Spaces described in the specification.

#### **Secure memory**

Microsoft's definition of "memory" improperly excludes virtual memory. Microsoft's definition of Secure Memory includes numerous restrictions not supported by the specification.

#### **Secure operating environment, Said operating environment**

See Secure Processing Environment.

#### **Securely applying**

Microsoft's definition of "securely" is inconsistent with and excludes embodiments described in the specification.

Microsoft's definition of Securely Applying improperly includes limitations from specific embodiments, as well as limitations not required by the specification or claims.

#### **Securely assembling**



The Microsoft definition incorporates limitations from specific embodiments, and ignores alternate embodiments not requiring those limitations.

#### **Securely processing**

The Microsoft definition improperly incorporates a requirement of a secure execution space. This requirement is inconsistent with embodiments described in the specification.

#### **Securely receiving**

The Microsoft definition is based on limitations taken from a particular embodiment and ignores alternate embodiments.

#### **Security level, Level of security**

The Microsoft definition improperly requires an "ordered measure" and persistence. The second and third sentences from the Microsoft definition are unsupported by any disclosure in the specifications.

#### **Tamper resistance**

The Microsoft definition improperly requires a tamper resistant barrier.

#### **Tamper resistant barrier**

The Microsoft definition describes a specific embodiment, and is inconsistent with alternate embodiments described in the specifications.

#### **Tamper resistant software**

The Microsoft definition improperly requires a tamper resistant barrier.

#### **Use**

The second sentence of the Microsoft definition improperly incorporates limitations from a particular embodiment.

#### **User controls**

The Microsoft definition is inconsistent with the claim and the prosecution history.

#### **Validity**

The Microsoft definition improperly incorporates the concept of "authentication," and applies only to data.

#### **Virtual distribution environment**

See Global Construction of VDE.

#### **Claim phrases**

##### **193.1**

#### **receiving a digital file including music**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication a recipient and use of controls.

#### **a budget specifying the number of copies which can be made of said digital file**

The Microsoft definition improperly includes "copies" that are not "long-lived, decrypted or accessible." The Microsoft definition also ignores embodiments involving alternative control structures.

#### **controlling the copies made of said digital file**

The Microsoft definition improperly incorporates limitations from particular embodiments, ignores embodiments describing alternative control structures and imposes numerous limitations that are not supported by the specification or claim language.

#### **determining whether said digital file may be copied and stored on a second device based on at least said copy control**

The Microsoft definition incorporates numerous unnecessary limitations not required by the claim or the specification, improperly requires that "the" file, as opposed to a copy, be stored on a second device, excludes described alternative embodiments and requires an absolute degree of control that is inconsistent with the specification.

#### **if said copy control allows at least a portion of said digital file to be copied and stored on a second device**

The Microsoft definition's "explanation" of the branches makes no sense and is unsupported by the claim and , improperly requires that "the" file, as opposed to a copy, be stored on a second device.

#### **copying at least a portion of said digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly excludes embodiments described in the specification.

**transferring at least a portion of said digital file to a second device**

The Microsoft definition improperly distinguishes a "copy" and "the" file, improperly requires that controls be executed and ignores alternative embodiments described in the specification.

**storing said digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly requires storage of the entire file rather than a portion.

**193.11**

**receiving a digital file**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication a recipient and use of controls.

**determining whether said digital file may be copied and stored on a second device based on said first control**

The Microsoft definition incorporates numerous unnecessary limitations not required by the claim or the specification, improperly requires that "the" file, as opposed to a copy, be stored on a second device, excludes described alternative embodiments and requires an absolute degree of control that is inconsistent with the specification.

**identifying said second device**

The Microsoft definition improperly requires that the identification distinguish the device from all other devices, that controls be used and that a VDE Secure Processing Environment be used.

**whether said first control allows transfer of said copied file to said second device**

The Microsoft definition improperly distinguishes a "copy" from "the" file, and ignores embodiments describing alternative control structures.

**said determination based at least in part on the features present at the device**

The Microsoft definition improperly requires that all features be used, that these be "actual, current" features and improperly excludes device identifiers.

**if said first control allows at least a portion of said digital file to be copied and stored on a second device**

The Microsoft definition's "explanation" of the branches makes no sense and is unsupported by the claim and , improperly requires that "the" file, as opposed to a copy, be stored on a second device.

**copying at least a portion of said digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly excludes embodiments described in the specification.

**transferring at least a portion of said digital file to a second device**

The Microsoft definition improperly distinguishes a "copy" and "the" file, improperly requires that controls be executed and ignores alternative embodiments described in the specification.

**storing said digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly requires storage of the entire file rather than a portion.

**193.15**

**receiving a digital file**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication a recipient and use of controls, and the requirement that the step must proceed in both authentication branches is not supported in the claim.

**an authentication step comprising:**

The Microsoft definition improperly includes a requirement of an absence of trust, VDE controls and a VDE Secure Processing Environment.

**accessing at least one identifier associated with a first device or with a user of said first device**

The Microsoft definition improperly requires "securely" accessing, that an identifier identify a "single" user or device (but not "and"), VDE controls, and a VDE Secure Processing Environment.

**determining whether said identifier is associated with a device and/or user authorized to store said digital file**

The Microsoft definition improperly requires VDE controls and a VDE Secure Processing Environment.

**storing said digital file in a first secure memory of said first device, but only if said device and/or user is so authorized, but not proceeding with said storing if said device and/or user is not authorized**

The Microsoft definition ignores embodiments describing alternative control structures, and improperly requires that "the" file be stored, as opposed to a copy, VDE controls, and a VDE Secure Processing Environment.

**storing information associated with said digital file in a secure database stored on said first device, said information including at least one control**

Microsoft's definition improperly requires that the stored information be associated with the digital file but not the digital file's contents, VDE controls, a VDE Secure Processing Environment and that the step proceed regardless of the outcome of the authentication step.

**determining whether said digital file may be copied and stored on a second device based on said at least one control**

The Microsoft definition incorporates numerous unnecessary limitations not required by the claim or the specification, improperly requires that "the" file, as opposed to a copy, be stored on a second device, excludes described alternative embodiments, requires an absolute degree of control that is inconsistent with the specification, and requires that the step proceed regardless of the outcome of the authentication step.

**if said at least one control allows at least a portion of said digital file to be copied and stored on a second device,**

The Microsoft definition's "explanation" of the branches makes no sense and is unsupported by the claim and , improperly requires that "the" file, as opposed to a copy, be stored on a second device.

**copying at least a portion of said digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly excludes embodiments described in the specification and improperly requires that the step proceed regardless of the outcome of the authentication step.

**transferring at least a portion of said digital file to a second device**

The Microsoft definition improperly distinguishes a "copy" and "the" file, improperly requires that controls be executed and ignores alternative embodiments

described in the specification, and improperly requires that the step proceed regardless of the outcome of the authentication step.

**storing said digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly requires storage of the entire file rather than a portion, and improperly requires that the step proceed regardless of the outcome of the authentication step.

**193.19**

**receiving a digital file at a first device**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication a recipient and use of controls.

**establishing communication between said first device and a clearinghouse located at a location remote from said first device**

The Microsoft definition improperly requires a communications channel and that the communications channel was "previously non-existent."

**using said authorization information to gain access to or make at least one use of said first digital file**

The Microsoft definition improperly requires that "all of" the authorization information be used, VDE controls, a VDE Secure Processing Environment, and ignores embodiments describing alternative control structures.

**receiving a first control from said clearinghouse at said first device**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication a recipient and use of controls.

**storing said first digital file in a memory of said first device**

The Microsoft definition improperly requires VDE controls and a VDE Secure Processing Environment.

**using said first control to determine whether said first digital file may be copied and stored on a second device**

The Microsoft definition incorporates numerous unnecessary limitations not required by the claim or the specification, improperly requires that "the" file, as opposed

to a copy, be stored on a second device, excludes described alternative embodiments and requires an absolute degree of control that is inconsistent with the specification.

**if said first control allows at least a portion of said first digital file to be copied and stored on a second device**

The Microsoft definition's "explanation" of the branches makes no sense and is unsupported by the claim and , improperly requires that "the" file, as opposed to a copy, be stored on a second device.

**copying at least a portion of said first digital file**

The Microsoft definition improperly distinguishes a "copy" and "the" file, and improperly excludes embodiments described in the specification.

**transferring at least a portion of said first digital file to a second device including a memory and an audio and/or video output**

The Microsoft definition improperly distinguishes a "copy" and "the" file, improperly requires that controls be executed and ignores alternative embodiments described in the specification.

**storing said first digital file portion**

Microsoft's definition improperly distinguishes a "copy" and "the" file.

**683.2**

**the first secure container having been received from a second apparatus**

Microsoft's definition improperly requires that the first secure container identify the apparatus from which it was received, and improperly argues that, in the absence of such identification, that container could not be distinguished from a container created at the site. Microsoft's definition includes numerous improper limitations, including authenticating a recipient and authentication occurring in accordance with VDE controls. The examples cited by Microsoft are misleading, since these are specific embodiments rather than general requirements.

**an aspect of access to or use of**

Microsoft's definition improperly excludes rules governing more than one aspect, improperly excludes access and use and improperly requires that the aspect be governed in relation to "any and all processes, users, and devices."

**the first secure container rule having been received from a third apparatus different from said second apparatus**

Microsoft's definition improperly requires that the first secure container identify the apparatus from which it was received, and improperly argues that, in the absence of such identification, that container could not be distinguished from a container created at the site. Microsoft's definition includes numerous improper limitations, including receipt in a secure container, authenticating a recipient and authentication occurring in accordance with VDE controls.

**hardware or software used for receiving and opening secure containers**

Microsoft's definition improperly requires a Secure Processing Environment and SPU, improperly requires "the same single logical piece of either hardware or software (as opposed to both)," and improperly requires authentication and VDE controls.

**said secure containers each including the capacity to contain a governed item, a secure container rule being associated with each of said secure containers**

The Microsoft definition improperly requires that rules be associated with secure containers, as opposed to governed items.

**protected processing environment at least in part protecting information contained in said protected processing environment from tampering by a user of said first apparatus**

The Microsoft definition is unsupported in the specification. It is contradicted by the claim and improperly requires numerous elements not required by the specification, including a Secure Processing Environment.

**hardware or software used for applying said first secure container rule and a second secure container rule in combination to at least in part govern at least one aspect of access to or use of a governed item contained in a secure container**

The Microsoft definition improperly requires a Secure Processing Environment/SPU, a "single" piece of hardware or software, assembly of a control and governance through VDE controls.

**hardware or software used for transmission of secure containers to other apparatuses or for the receipt of secure containers from other apparatuses.**

The Microsoft definition improperly requires a Secure Processing Environment/SPU, a "single" piece of hardware or software, assembly of a control and governance through VDE controls. The examples cited by Microsoft are misleading, since these are specific embodiments rather than general requirements.



**digitally signing a first load module with a first digital signature designating the first load module for use by a first device class**

The Microsoft definition improperly requires that the digital signature be used as the signature key, that all load modules be signed and that certain devices not have keys.

**digitally signing a second load module with a second digital signature different from the first digital signature, the second digital signature designating the second load module for use by a second device class having at least one of tamper resistance and security level different from the at least one of tamper resistance and security level of the first device class**

The Microsoft definition improperly requires that the digital signature be used as the signature key, that all load modules be signed, that certain devices not have keys, that security levels be persistent and that security levels be greater or less than other security levels.

**distributing the first load module for use by at least one device in the first device class**

The Microsoft definition improperly requires transmission and that the digital signature accompany the first load module as distributed.

**distributing the second load module for use by at least one device in the second device class**

The Microsoft definition improperly requires transmission and that the digital signature accompany the first load module as distributed.

**721.34**

**arrangement within the first tamper resistant barrier**

The Microsoft definition improperly requires that the arrangement be "executed wholly within the first tamper resistant barrier."

**prevents the first secure execution space from executing the same executable accessed by a second secure execution space having a second tamper resistant barrier with a second security level different from the first security level**

The Microsoft definition improperly requires that the second secure execution space be part of the protected processing environment, that security level differences be persistent and higher or lower than each other and that the "same" executable be executed.

**861.58**

**creating a first secure container**

The Microsoft definition improperly requires a VDE Secure Processing Environment.

**including or addressing . . . organization information . . . desired organization of a content section. . . and metadata information at least in part specifying at least one step required or desired in creation of said first secure container**

The second paragraph from Microsoft's definition is inconsistent with the claim. The limitations imposed by the third paragraph are not required by the claim or specification.

**at least in part determine specific information required to be included in said first secure container contents**

The Microsoft definition improperly excludes other reasons for inclusion of the information and improperly requires specific values.

**rule designed to control at least one aspect of access to or use of at least a portion of said first secure container contents**

The Microsoft definition improperly requires that the rule be designed for particular contents, that the rule be used by VDE controls, the presence of a VDE Secure Processing Environment and that the rule is generated or identified based on the descriptive data structure. Microsoft's definition also excludes embodiments describing alternative control structures.

**891.1**

**resource processed in a secure operating environment at a first appliance**

The Microsoft definition improperly requires a shared facility and a Secure Processing Unit with specific features.

**securely receiving a first entity's control at said first appliance**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication, use of controls and encryption on the communications level.

**securely receiving a second entity's control at said first appliance**

The Microsoft definition includes numerous unnecessary limitations, including secure container, authentication, use of controls and encryption on the communications level.

**securely processing a data item at said first appliance, using at least one resource**

The Microsoft definition improperly requires a Secure Processing Unit including numerous limitations.

**securely applying, at said first appliance through use of said at least one resource said first entity's control and said second entity's control to govern use of said data item**

The Microsoft definition improperly requires a Secure Processing Environment consisting of a Secure Processing Unit and that the resource be a component part of a secure operating environment.

**900.155**

**first host processing environment comprising**

The Microsoft definition incorporates limitations not required by the claim or the specifications, including limiting the host processing environment to only currently executing software.

**designed to be loaded into said main memory and executed by said central processing unit**

The Microsoft definition improperly requires that the software is capable of being loaded "only" in the main memory and executed "only" by the CPU.

**said tamper resistant software comprising: . . . one or more storage locations storing said information**

The Microsoft definition improperly requires that the storage locations be part of the machine check programming and that the storage locations must not store other information.

**derives information from one or more aspects of said host processing environment,**

The Microsoft definition improperly requires that information be derived from "hardware," and that the information "uniquely and persistently" identify the host processing environment.

**one or more storage locations storing said information**

The Microsoft definition improperly requires that the storage locations be part of the tamper resistant software and that the storage locations must not store other information.

**information previously stored in said one or more storage locations**

Microsoft's definition would render the claim nonsensical, since it would require a comparison involving information that is no longer available for the comparison.

**generates an indication based on the result of said comparison**

Microsoft's definition improperly requires that only two results be possible and that the indication is based solely on the result of the "compares" step.

**programming which takes one or more actions based on the state of said indication**

The Microsoft definition improperly requires executable programming, that the programming not be part of the host processing environment, that the programming must take an action regardless of the indicator state and that the action must be based solely on the state of the indication.

**at least temporarily halting further processing**

Microsoft's definition improperly requires that the host processing environment and all processes running in it be halted.

**912.8**

**identifying at least one aspect of an execution space required for use and/or execution of the load module**

The Microsoft definition improperly requires that the identifier "define fully, without reference to any other information."

**said execution space identifier provides the capability for distinguishing between execution spaces providing a higher level of security and execution spaces providing a lower level of security**

The Microsoft definition improperly requires that the execution space identifier provides the load module with the ability to determine a level of security, and the presence of two higher and two lower levels of security.

**checking said record for validity prior to performing said executing step**

The Microsoft definition improperly requires that the record be checked before execution of any identified information, that evaluation occur within a VDE Secure Processing Environment, and that specific types of information be checked.

**912.35**

**received in a secure container**

The Microsoft definition improperly requires "encapsulation" in a secure container, authentication in accordance with VDE controls and acceptance of the secured container.

**said component assembly allowing access to or use of specified information**

The Microsoft definition improperly requires that the component assembly operate by itself, that it execute in a VDE Secure Processing Environment and that the component assembly be dedicated to specific information. The Microsoft definition ignores embodiments describing alternative control structures and improperly distinguishes access and use.

**said first component assembly specified by said first record**

The first paragraph of Microsoft's definition defines this term in a restrictive manner with no support in the claim. Microsoft's second paragraph is devoted to a non-existent inconsistency created by Microsoft's restrictive definition.

#### **Claims as a Whole:**

In every case, Microsoft requires the system be a VDE or the method be performed in a VDE. This requirement is not supported by the language of any of the claims.

#### **Global Construction**

The language of the individual claims contains nothing to support the large number of restrictions imposed by Microsoft's "global construction." Those restrictions are unsupported by and in many cases contradicted by the specification.

2. Digital Rights Management in general. Dr. Reiter will testify regarding Digital Rights Management technology, including encryption and tamper-resistance techniques. The nature and extent of such testimony will depend on the Court's decision as to the scope and format of tutorial presentations.

3. InterTrust's patents and patent claims. Dr. Reiter will testify regarding the general nature of the InterTrust patents, and will summarize the claims at issue in the initial Joint Claim Construction hearing. The nature of that testimony will depend on the

Court's decision as to ordering and format of testimony, but will be consistent with the testimony outlined above regarding claim terms and phrases.